

E-filing

THEODORE V. WELLS JR. (Admitted *Pro Hac Vice*)  
MOSES SILVERMAN (Admitted *Pro Hac Vice*)  
MICHAEL E. GERTZMAN (Admitted *Pro Hac Vice*)  
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP  
1285 Avenue of the Americas  
New York, New York 10019  
Telephone: (212) 373-3000  
Facsimile: (212) 757-3990

MICHAEL J. SHEPARD (State Bar No. 91281)  
MICHAEL A. ZWIBELMAN (State Bar No. 224783)  
HELLER EHRMAN LLP  
333 Bush Street  
San Francisco, California 94104-2878  
Telephone: (415) 772-6000  
Facsimile: (415) 772-6268

Attorneys for Defendant  
CHARLES W. McCALL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
CHARLES W. McCALL and JAY M.  
LAPINE,  
  
Defendants.

Case No.: CR-00-0505-MJJ

**[PROPOSED] ORDER STRIKING  
UNPROVEN ALLEGATIONS FROM  
THE INDICTMENT**

The Honorable Martin J. Jenkins  
Courtroom 11, Nineteenth Floor

**FILED**

**OCT 27 2006**

**RICHARD W. WIEKING**  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 Having considered the request from defendants Charles W. McCall and Jay M.  
 2 Lapine for this Court to strike, with prejudice, the allegations in the Second Superseding  
 3 Indictment (unsealed June 4, 2003) ("indictment") related to the manipulation of reserves  
 4 and the improper use of recourse agreements, this Court hereby GRANTS defendants'  
 5 request.

6 This Court hereby FINDS that the United States has offered no evidence in support  
 7 of the allegations in the indictment related to the manipulation of reserves and the improper  
 8 use of recourse agreements. It is therefore ORDERED, in the interest of justice and in the  
 9 exercise of this Court's inherent supervisory power, that the following paragraphs of the  
 10 indictment shall be stricken with prejudice: paragraphs 21 (last sentence only), 23, 26(a)  
 11 (references to "recourse agreements" and "expenses" only), 26(d)-(e) (references to  
 12 "recourse agreements" and "acquisition reserves" only), 37, 48, 49, 52, 89 (fifth and seventh  
 13 bullet points only), 97(b) (reference to "recourse agreements with GECC" only), 97(c) ~~MEC~~  
 14 100(b) (reference to "recourse agreements with GECC" only), and 100(c) ~~MEC~~. *MEC*

15 IT IS SO ORDERED.

16 DATED: October 27, 2006

17 *none on the map*

*Martin J. Jenkins*  
 THE HONORABLE MARTIN J. JENKINS  
 United States District Judge